

LOWER PAXTON TOWNSHIP  
PLANNING COMMISSION  
Subdivision and Land Development Ordinance Workshop Meeting

March 14, 2007

**COMMISSIONERS PRESENT**

Fredrick Lighty  
Ernest Gingrich  
Roy Newsome  
Dennis Guise  
Richard Beverly  
Betsy Sibert  
William Neff

**ALSO PRESENT**

Dianne Moran, Planning & Zoning Officer  
Lori Wissler, Planning & Zoning Officer  
Chip Millard, Dauphin County  
Jim Snyder, HRG

**Call to Order**

Mr. Lighty called the workshop meeting of the Lower Paxton Township Planning Commission to order at 5:37 pm, on March 13, 2007 in Room 174 of the Lower Paxton Township Municipal Center, 425 Prince Street, Harrisburg, Pennsylvania.

**Pledge of Allegiance to the Flag**

Mr. Lighty led the recitation of the Pledge.

**Commissioner Comment**

Mr. Newsome commented that the Penn State Research Center has been working with state agencies and builders, coming up with a best practices document. They have been working on it for the last three years, and should be done in the next few months. Some of the state agencies will be recommending this as the best practices, considering the tremendous amount of work and thought that has gone into it. The document is best practices for subdivision and land development policies. The Center has worked with the Department of Transportation, Department of Community and Economic Development, the Department of Environmental Protection and Pennsylvania Builders and Landscape Architects. When it becomes available, Mr. Newsome will get copies for the members of the Commission.

**Proposed Subdivision and Land Development Ordinance  
(SALDO) Review**

180-105, Paragraph B. Mr. Lighty read that if there is a conflict, the higher standard should prevail. Mr. Lighty did not agree with that for all cases, noting that some provisions, such as the TND, where the standards are actually loosened on purpose. Mr. Lighty suggested adding “unless stated

otherwise..." or something similar to allow for instances where the Township intended for something lesser to be allowed. Mr. Snyder stated that it is not intended for internal conflicts within the Ordinance, but rather when the Ordinance conflicts with Zoning, Building, Fire, Health, or other codes. Mr. Lighty stated it should not always be the higher standard that prevails. There are places where the Township lowered standards because they wanted them that way, and did not want something in the SALDO to overpower what was intended.

Definitions:

"Accelerated" is misspelled in accelerated runoff.

Mr. Neff noted that the Board of Supervisors is included in the definitions, but the Planning Commission is not.

Mr. Neff asked that agent of record be added to the definitions to make it clear with whom contact is to be made, to avoid problems such as Wal-Mart. Mr. Snyder stated that it is defined on page 3-8, J. Approval or disapproval of the plans" the decision shall be made in writing and shall be communicated to the applicant personally or mailed to him at his last known address..." Mr. Snyder stated that applicant is defined as land owner, developer or other person who has filed an application for subdivision or land development activities. Mr. Neff questioned if that was clear enough, noting that an engineer may make the presentations, even though the applicant may be someone else. Mr. Snyder noted that in the Wal-Mart case, he did sign the application as agent for the applicant, and was the point of communication throughout the process, but he was not the applicant. Ms. Wissler noted that the application has a space for applicant's name and signature. Mr. Neff asked if there should be a space for who notice should be made to if other than the applicant. Mr. Snyder stated it has to be from the Township to the applicant, and nobody else. Mr. Neff asked what happens if the applicant is a corporation. Ms. Wissler stated that staff always asks for a contact person.

Stormwater Control: Mr. Neff noted that streams are defined as blue on the topography maps. Mr. Snyder stated there is a conflict in regards to the setbacks for a stream. The zoning ordinance calls for 75 and 100 feet depending on the zoning, and the SALDO calls for 50 feet, but does not specify between perennial and intermittent, and that needs to be worked out.

Floodplain: Mr. Newsome noted that the definition should refer to FEMA maps, not HUD. Mr. Snyder will look into that, noting it might say that in case there are any carry-overs.

Stream: Mr. Guise questioned the use of "flowing continuously" instead of "perennially or intermittently", noting it should be consistent. Mr. Snyder agreed.

180-302B: Mr. Newsome questioned whether it is appropriate to require a sketch plan to be accompanied, when it is not mandatory that one be done. Instead of "must" it should say "should." If the Township does not require it, the Ordinance should not require the format in which it comes to the Township. Mr. Snyder agreed, noting that in section 4, the "musts" were changed to "shoulds."

180-303.B: Mr. Neff asked about when plans are submitted to the Planning Commission that are just not ready to proceed, due to the significant number of comments. Mr. Neff asked if there was a point when it is appropriate to do so, that staff can send the applicant back to work on the plan before presenting it to the Commission or Board of Supervisors. Mr. Newsome noted there are communities that will deny a plan for lack of completeness. Mr. Newsome stated that the legal aspect of this is uneven, but the alternative is for the Planning Commission to be more aggressive in tabling plans. Mr. Neff noted that does not solve the problem. Mr. Newsome agreed, noting it may give staff more strength to have more complete plans. Mr. Snyder stated there is a very thorough checklist to make an application complete. If they do not have all the items on that checklist, such as fees et cetera, but if they do have all the necessary parts, it comes down to the quality of plans. Mr. Snyder stated the issue is if the plan can be denied, or if it has to have its due process. Mr. Snyder noted that there are municipalities that will call the applicant and tell them they have too many comments, so they have to either withdraw it or it will be denied. Mr. Lighty felt that this section may be too strong. The SALDO does a good job of explaining the difference between if the component parts are present, and if they are satisfactory. Because this is government, the applicant is entitled to due process. Mr. Lighty felt that was a Constitutional requirement. Staff should not be the ones sending an applicant anyway; the bodies have to act on the plan. Mr. Lighty felt that the Commission should not continue to table plans that have a lot of comments, it should bring the plan in for denial if there is a period of time with no action. Mr. Newsome agreed that there is a difference between the check lists and the interpretation. The checklists should be done by staff, but the interpretation should be done by the Commission, as well as the staff since they are professionals. Staff should be able to stop a plan at some point. There have been examples of plans with gross omissions. Mr. Snyder cautioned that when the Commission sends a plan to the Supervisors with a recommendation for denial, the Supervisors need to have the review to back up the denial, or they will be subject to having an improper denial.

Mr. Neff questioned if the law permits the Commission to deny a plan for lack of prosecution.

Mr. Neff asked if a limit of two time extensions could be added to the ordinance, noting there are plans sitting in limbo for very long periods of time. Ms. Wissler agreed with Mr. Neff, noting that if a time extension runs out, the plan can be deemed approved. Mr. Lighty asked if the burden is with the Township to track that, and vote it down. Ms. Wissler speculated it could, but did not know if that is really the desire of the Township. Ms. Moran stated there are some plans that will sit for years, hoping the Township will forget. Mr. Neff asked how that gap is closed. Mr. Fisher noted that a developer has to grant a time extension to the municipality, because the municipality has to act on the plan within 90 days. Mr. Fisher noted the Township is within its right, if it wanted to act to deny a plan that has been sitting too long. Mr. Fisher has seen plans be approved with a long list of conditions to get them moving through the system. Mr. Snyder read: Failure of a governing body or agency to render a decision and communicate it to the applicant within the time and in the manner required herein, shall be deemed an approval on the terms as presented, unless the applicant has agreed in writing to an extension of time for change in the prescribed manner of presentation or communication of decision, in which case, failure to meet the extended time or change the manner of presentation or communication shall have the right to ..." so if the applicant agrees to a time extension, that extends the review date. Does the Township have to respect an extension presented to

them for a year or can they take it for action? Mr. Neff felt that should happen no more than two times. Mr. Lighty felt it was up to the Township to take action to close a plan. Mr. Neff agreed. Mr. Lighty did not feel it should be done by operation of the ordinance, because that would deny someone their due process. The Township should have a reason to deny it. The Township should not be obligated to honor a time extension. Mr. Snyder noted that the Township can act at any time within that time frame. Mr. Lighty felt that due process would require the Township to take the action to vote to approve or deny it, and did not feel it should be an administrative operation. Mr. Millard suggested that it could be written like Mr. Neff suggested, and administered how Mr. Lighty suggested. Mr. Millard felt it would be up to the Township if whether it wants to deny the plan after provisions have not been met. That should not be stated in the ordinance, but rather a township policy. It could vary depending on the plan.

Mr. Lighty stated that there are four plans on tonight's agenda that have not had any movement, and are on for tabling. There is no reason the township can't bring the plan, see that they still have errors, and recommend denial. Ms. Wissler stated that is correct. Mr. Neff noted that if it is on the agenda, the applicant should assume the Planning Commission will discuss it, and instead of tabling the plan, the Commission could recommend denial, with reason of course. Mr. Millard felt that the reviews done by staff, and the county and the engineer create the list of comments that need addressed, and if there has been no submission of revised plans, that is the reason for denial.

Mr. Neff asked that on the agenda, below each item, there be a notation of when the clock expires. That would be a good reminder for the Commissioners. Ms. Wissler noted there are about 10 plans besides the four listed that are riding on time extensions. Mr. Fisher noted that other municipalities may call the applicant and tell them that the plan will be acted on so that they can be present to discuss. Mr. Snyder asked why the staff should babysit developers. Mr. Fisher noted that a good use of the time extension is a plan like Stray Winds because it is so large that it is equivalent to 5 plans, and will take longer to get through the system.

Mr. Snyder stated that the statutory items and the time extension agreement are included in the ordinance. It might be a good idea to ask the solicitor before acting on a dormant plan, but did not foresee any problems.

Mr. Lighty asked about the requirement to submit electronic data. Mr. Snyder stated that is for after final approval for mapping purposes. Mr. Lighty asked why electronic data couldn't be submitted with the preliminary plan for use during the meetings. Mr. Snyder speculated there could be two levels of data submitted for the two uses.

Mr. Lighty asked about the 28 days for review, and if that time is deducted from the 90-day review period. Ms. Wissler stated that the 90 days begins at the date of the Planning Commission meeting.

Ms. Wissler asked about submitting the planning module with the preliminary plan. Ms. Wissler completes the 4A, and Mr. Millard completes the 4B components of the planning module. Ms. Wissler asked how it is possible to submit the planning module with the preliminary plan when

the county and Township have not seen the plan. Mr. Snyder stated that a planning module has a plan attached, and if they submit component 4 for review it will have a lot of additional data included. Ms. Wissler noted that one of the questions is whether there are wetlands on the plan, and asked how she would answer the questions without the plan. Mr. Fisher noted that it would only be completed to the level that would be done by the consultant. Mr. Snyder stated that it gets filed with the preliminary plan, even though component A and B are still being worked on. When the Board approves the preliminary plan, they can then also sign off on the planning module. Mr. Millard stated that the County usually gets the planning module after they have seen the plan.

Mr. Fisher submitted his written comments on the proposed SALDO.

Mr. Fisher questioned the five year time window, asking if it was for the preliminary plan, not the final plan. Mr. Snyder stated that the plan can be preliminary or final, and the applicant has five years to commence and complete work without losing the right for protection from intervening ordinance changes. The five year time frame can be extended if there are appeals, litigation, sewer or utility moratoriums, that prevent the commencement of the work. If there is a preliminary plan and a final plan, the five years is measured from the date of the approval of preliminary plan. The plan does not expire. Mr. Snyder stated that the MPC says the five year rule is for preliminary plans or final plans. The phasing schedule extends the time frame also, but if the phasing schedule is changed or the builder builds out of phase, he loses the rights.

Mr. Fisher asked about the percentage of bonding. Mr. Snyder agreed that 15% may be too much, but noted that it is only financial security, that says you will pay that amount, and realistically only costs about 1% of that amount annually to hold the bond. Ms. Wissler noted that from the Township's perspective the amount bonded is never enough. Mr. Snyder noted that drawing on a bond is very costly to the Township.

Section 306: Mr. Neff asked if the Township has a problem collecting application fees. Ms. Wissler stated that there is no problem getting the application fees or the engineering fees. Mr. Neff stated that if the Township had a problem they could use an escrow account like other townships do.

Mr. Neff asked if the Township gets enough information about the abutting properties, and if they should ask for more than 100 feet. Mr. Fisher felt that should be reduced to 50 feet, which would greatly reduce the cost of mapping, and agreed that sometimes 100 feet is not enough. Mr. Neff was concerned if there was adjacent development. Mr. Snyder explained that what the Township is looking for is encroachments or drainage coming onto the land. Mr. Snyder stated it could be changed to 50 feet with wording to say that if the Township feels additional information is required, it shall be provided. Mr. Newsome noted that most of the time the Township is interested in a structure or a road.

Section 403.8: Mr. Neff questioned HOP permits, and how they fit into the picture of plan approval versus PennDOT approval. Mr. Snyder stated that if a plan proposes access to a state highway, you can't hold up the plan until the HOP is issued. According to the MPC, you have to approve the plan provided there is a note on the plan saying that access is required by PennDOT and a

building permit will not be issued until you do get an HOP. Mr. Newsome stated the approval could be subject to obtaining the HOP. Mr. Snyder stated that is not correct, the HOP cannot be a condition of the plan, it must be approved as long as that note is on the plan. If there was a situation where the applicant filed the HOP and the driveway changes, then the plan has to be changed and that is a material change to the plan, and the applicant has to come back to the Township. The HOP cannot be a condition of the plan approval.

Mr. Neff asked if the plan shows access to a state road, and PennDOT denies it and tells them to move it to another location, then the plan experiences a substantial change and has to come back and go through the process. Mr. Snyder stated that is correct, and noted that it may be a judgment call, that it may be a very minor change. There is a note required by the MPC on the plan, requiring an HOP to get a building permit.

### **Public Comment**

There was no further public comment at this time.

Mr. Snyder noted that peer reviews of the SALDO are due to him on March 15, 2007, and he will distribute them to the Planning Commission.

### **Adjournment**

The next Planning Commission workshop meeting is scheduled for March 21, 2007 to continue discussion on the draft Subdivision and Land Development Ordinance at 6:00pm in Room 174 of the Lower Paxton Township Municipal Center, with a light meal at 5:30 pm.

Being no further business, the meeting adjourned at 6:50pm.

Respectfully Submitted,

Michelle Hiner  
Recording Secretary